

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

HERU SPENCER,

Plaintiff,

vs.

EXPERIAN; EQUIFAX INC.; RELX
INC.; TRANSUNION HOLDING
COMPANY INC.;

Defendants.

CV 23-65-H-BMM-KLD

ORDER

Defendant RELX Inc. has moved to continue the preliminary pretrial conference scheduled for January 8, 2024 and all related deadlines on the ground that Plaintiff Heru Spencer, who is proceeding pro se, still has not served Defendants Experian and Equifax Inc. with the Complaint in accordance with Rule 4(m) of the Federal Rules of Civil Procedure. (Doc. 32).

On September 19, 2023, Defendant Trans Union LLC (improperly identified as TransUnion Holding Company Inc.) removed this case from Montana state court pursuant to 28 U.S.C. §§ 1331, 1441, 1446. (Doc. 1). Federal Rule of Civil

Procedure 4(m) requires that a plaintiff serve a complaint and summons within 90 days “after the complaint is filed.” In a case removed from state court, the 90-day period begins to run on the date of removal. *See e.g. Brown v. State of California*, 2023 WL 5961659, at *23 n. 31 (C.D. Cal. Aug. 21, 2023). Unless a plaintiff “shows good cause” for failing to timely serve a complaint on a defendant, “the court – on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

This case was removed on September 19, 2023, which means Spencer was required to serve all Defendants, including Experian and Equifax, by December 18, 2023. As of the date of this Order, Spencer has not served his Complaint on Experian or Equifax. Because the 90 day period for accomplishing service on these Defendants has passed,

IT IS ORDERED that on or before January 10, 2024, Plaintiff shall show good cause for failing to timely serve to his Complaint on Experian and Equifax. Spencer is advised that if he fails to show good cause, his claims against Experian and Equifax may be dismissed without prejudice under Rule 4(m).

IT IS FURTHER ORDERED that RELX’s motion to vacate the preliminary pretrial conference and related deadlines (Doc. 33) is GRANTED. The January 8, 2024 preliminary pretrial conference is VACATED and will be reset if necessary

after the Court rules on the pending motions to dismiss filed by RELX and Trans Union. (Docs. 11 & 13).

DATED this 27th day of December, 2023

A handwritten signature in blue ink, reading "Kathleen L. DeSoto", is positioned above a horizontal line.

Kathleen L. DeSoto
United States Magistrate Judge